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16 **IN THE UNITED STATES DISTRICT COURT**
17 **FOR THE DISTRICT OF MONTANA**
18 **MISSOULA DIVISION**

19 UNITED STATES OF AMERICA,)
20 Plaintiff,) No. CR 21-29-M-DLC
21 vs.)
22) **TRANSCRIPT OF ARRAIGNMENT**
23 MICHAEL BLAKE DEFRANCE,) **ON SUPERSEDING INDICTMENT**
24 Defendant.)
25 _____)

26 **BEFORE THE HONORABLE KATHLEEN L. DeSOTO**
27 **UNITED STATES DISTRICT COURT MAGISTRATE JUDGE**
28 **FOR THE DISTRICT OF MONTANA**

29 Russell Smith United States Courthouse
30 201 East Broadway
31 Missoula, Montana 59802
32 Tuesday, September 21, 2021
33 1:43 to 1:46 p.m.

34 Proceedings recorded by digital audio recording
35 Transcript produced by computer-assisted transcription

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APPEARANCES

For the Plaintiff:	MS. KARLA E. PAINTER Assistant U.S. Attorney P.O. Box 8329 Missoula, Montana 59807
For the Defendant:	MR. JOHN RHODES Attorney at Law Federal Defenders of Montana 125 Bank Street, Suite 710 Missoula, Montana 59802

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1 PROCEEDINGS

2 (Open court.)

3 (Defendant present.)

4 THE COURT: Next up is *United States of America v.*
5 *Michael Blake Defrance*. It's CR 21-29-M-DLC.

6 All right. Mr. Defrance, I previously appointed
7 Mr. Donahoe to represent you and he continues in that
8 representation, but for today's purposes Mr. Rhodes is going
9 to stand in his stead. Is that all right with you?

10 THE DEFENDANT: Yes.

11 THE COURT: Okay. Mr. Defrance, do you have a copy
12 of the superseding indictment?

13 THE DEFENDANT: Yes.

14 THE COURT: So the grand jury has returned a
15 superseding indictment finding probable cause to charge you
16 with being a prohibited person in possession of firearms and
17 ammunition. That's in violation of Title 18, United States
18 Code, Section 922(g)(9). The maximum penalty for that count
19 is up to ten years' imprisonment, a \$250,000 fine, and three
20 years of supervised release. There's also a \$100 special
21 assessment that would be due and owing at the time of
22 sentencing should you either plead guilty or be found guilty
23 after a trial.

24 There's also a criminal forfeiture allegation, and
25 that's pursuant to Title 18, United States Code,

1 Section 924(d), and forfeiture is simply the mechanism that
2 allows the government to seize and requires you to forfeit any
3 ownership interest that you may have in property that's
4 related to the criminal conduct alleged, so in this case it
5 would be any guns and ammunition alleged to be the subject of
6 the charge of the indictment.

7 You have the right to remain silent. Anything you
8 say can and will be used against you in these proceedings, but
9 you don't have to say anything at all. Of course, the
10 conversations that you have with your attorney, whether it's
11 Mr. Rhodes here today or Mr. Donahoe going forward, will
12 remain private and confidential due to the attorney/client
13 privilege, so you should feel comfortable in speaking with
14 them about matters relating to your case. You have a right to
15 have your counsel present at any questioning by law
16 enforcement, if there's a lineup in your case, and any and all
17 court proceedings.

18 Do you understand these rights?

19 THE DEFENDANT: Yes.

20 THE COURT: All right. Do you have any physical
21 health issues or mental health issues that would impair your
22 ability to understand what we're doing here today?

23 THE DEFENDANT: No.

24 THE COURT: Mr. Rhodes, have you had the opportunity
25 to review the superseding indictment with Mr. DeFrance?

1 MR. RHODES: Yes, Your Honor.

2 THE COURT: And does he wish it to be read?

3 MR. RHODES: No, Your Honor. He waives the reading.

4 THE COURT: Okay.

5 Mr. Defrance, do you understand the nature of the

6 charge against you contained in this superseding indictment?

7 THE DEFENDANT: Yes.

8 THE COURT: And do you understand the maximum

9 penalties that could be imposed upon you should you either

10 plead guilty to the charge in this superseding indictment or

11 be found guilty after a trial?

12 THE DEFENDANT: Yes.

13 THE COURT: And, Mr. Rhodes, how does your client

14 wish to plead?

15 MR. RHODES: He pleads not guilty to the criminal

16 charge and denies the forfeiture allegation.

17 THE COURT: All right.

18 I don't believe that there is a new preliminary

19 pretrial date because I think there's already been one, and I

20 don't have any information that would lead me to believe the

21 trial is being changed.

22 Ms. Painter, do you know if there's --

23 MS. PAINTER: There's currently no trial set,

24 Your Honor.

25 THE COURT: Oh.

1 MS. PAINTER: We're waiting for the Court to
2 reestablish a trial date.

3 THE COURT: Oh, okay. All right. So there's no
4 additional hearing date set in this case.

5 Let me give you the Brady order:

6 Under Criminal Rule 5(f), the government is ordered
7 to comply with its disclosure obligations under *Brady v.*
8 *Maryland* and related cases. The failure to do so may result
9 in sanctions. And we will put a written text order in the
10 docket.

11 Mr. Defrance, I'm going to release you on all the
12 same conditions that you were previously released to. It's my
13 understanding that you're doing well on supervision, so I
14 commend you for that.

15 Anything further, Mr. Rhodes?

16 MR. RHODES: No, Your Honor. Thank you.

17 THE COURT: Ms. Painter, anything further from the
18 government?

19 MS. PAINTER: No, Your Honor. Thank you.

20 THE COURT: All right. We'll be in recess.

21 (Proceedings were concluded at 1:46 p.m.)
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TRANSCRIBER'S CERTIFICATE

I, JoAnn Jett Corson, certify that the foregoing transcript is an accurate transcription, to the best of my ability, from the digital audio recording of the proceedings given at the time and place hereinbefore mentioned; and that a certified copy of this transcript will be filed electronically with the Court.

I further certify that I am not attorney for, nor employed by, nor related to any of the parties or attorneys to this action, nor financially interested in this action.

IN WITNESS WHEREOF, I have set my hand at Missoula, Montana this 15th day of December, 2021.

/s/ JoAnn Jett Corson

JoAnn Jett Corson
United States Court Reporter